

REMARKS

Applicants submit these Remarks in reply to the non-final Office Action mailed June 2, 2009. Claims 25-42 and 44-48 are pending in this application, of which claims 25, 33, 41, 44, and 48 are independent.

In the Office Action,¹ the Examiner took the following actions:

- i. rejected claim 48 under 35 U.S.C. § 112, first paragraph, as being indefinite for failing to comply with the written description requirement;
- ii. rejected claims 25-27, 31, 33-35, 38, 39, 41, 42 and 44-48 under 35 U.S.C. § 103(a) as being obvious over the following combinations:
 - a. claims 25-27, 33-35, 38, 41, 42 and 44-48 over U.S. Patent No. 6,397,062 ("*Sessions*") and further in view of U.S. Patent No. 7,525,484 ("*Dupray*");
 - b. claims 31 and 39 over *Sessions* in view of *Dupray* and further in view of U.S. Patent Publication No. 2003/0231141 ("*Alden*"); and
- iii. indicated claims 28,29,32, 36, 37, and 40 contain allowable subject matter.

With this Reply, Applicants have amended independent claims 25, 33, 41, 44, and 48 in an effort to further prosecution. Applicants' originally-filed specification provides support for these amendments at, for example, page 7, line 26 to page 8, line 2, and page 10, lines 2-11.

Applicants respectfully traverse all pending rejections for at least the reasons discussed below.

¹ The Office Action contains a number of statements characterizing Applicants' disclosure, including the claims, and the related art. Regardless of whether any such statement is specifically addressed herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

I. Rejection Under 35 U.S.C. § 112

Claim 48 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action alleged that there is no support for the claimed “computer readable medium.” See Office Action, p. 2. Applicants respectfully disagree. Applicants’ disclosure, at, for example, page 6, lines 19-26 recites a “computer program product able to be loaded in the memory of at least one electronic computer and comprising portions of software code” (emphasis added), which adequately supports the claimed “computer readable medium.” Claim 48 thus complies with 35 U.S.C. § 112, first and second paragraphs. Accordingly, Applicants request withdrawal of this rejection.

II. Rejections Under 35 U.S.C. § 103

Claims 25-27, 33-35, 38, 41, 42 and 44-48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,397,062 (“*Sessions*”) and further in view of U.S. Patent No. 7,525,484 (“*Dupray*”). In addition, claims 31 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Sessions* in view of *Dupray* and further in view of U.S. Patent Publication No. 2003/0231141 (“*Alden*”). Applicants respectfully traverse these rejections because the Office Action has failed to establish a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, “All Claim Limitations Must Be Considered.” M.P.E.P. § 2143.03 (8th ed., rev. 7, July 2008). More specifically, the M.P.E.P. requires that “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *Id.* (quoting *In re Wilson*, 424 F.2d 1382, 1385 (C.C.P.A. 1970)). Applicants submit that a *prima facie* case of obviousness has

not been established for at least the reason that the cited art, whether taken alone or in combination, fails to teach or suggest every element recited in Applicants' independent claims 25, 33, 41, 44, and 48.

Independent claim 25, as amended, calls for a combination including, for example, "defining a propagation model for estimating the field received from the at least one source of electromagnetic field at a determined position of a territory, wherein the propagation model estimates the field received from the at least one source of electromagnetic field without measuring the field." Amended independent claims 33, 41, 44, and 48, although different in scope from independent claim 25, contain similar recitations. Applicants respectfully submit that *Sessions* fails to teach or suggest at least the above-noted feature of amended independent claims 25, 33, 41, 44, and 48.

Sessions generally discloses "a multiple antenna test system and method . . . [that] allows wireless service providers to simultaneously evaluate field strengths of wireless transmission paths at multiple elevations of potential base station sites." *Sessions*, col. 3, ll. 34-37. To this end, *Sessions* discloses that once test antennas are dispatched to a field site at varying elevations, "transmitter(s) produces test propagation signals that are selectively broadcast from each of the test antennas." *Id.* at col. 61-63. *Sessions* further provides that "[n]etwork interface equipment may be used to process the multiple sets of test propagation signals transmitted from each of the antennas to multiple receiving locations within the potential cell." *Id.* at col. 3, ll. 6-10. In this manner, "the multiple antenna test evaluates multiple elevations of a potential [base station] site, [and] cellular designers can conduct more tests in a work day." *Id.* at col. 3, ll. 25-27.

As best understood, the Office Action appears to equate *Sessions* disclosure of the test antenna configuration and subsequent measurement of test propagation signals transmitted by the test antennas with the claimed “propagation model.” See Office Action, p. 3. While Applicants respectfully disagree with this assertion for at least the reasons given in their Response of May 4, 2009, Applicants submit that even if the test antenna configuration and measured signals of *Sessions* equates to the claimed “propagation model,” *Sessions* still does not teach or suggest “propagation model [that] estimates the field received from the at least one source of electromagnetic field without measuring the field,” as required by Applicants’ amended independent claims 25, 33, 41, 44, and 48. Instead, as shown above, *Sessions* discloses directly measuring the field strength at various test points in the cellular territory in order to select a base station site. See, e.g., *Sessions*, col. 3, ll. 34-37; *id.* at col. 2, ll. 3-8; *id.* at col. 2, ll. 54-56. Thus, *Sessions* cannot teach or suggest the claimed “propagation model [that] estimates the field received from the at least one source of electromagnetic field without measuring the field,” as required by Applicants’ independent claims.

The Examiner’s application of *Dupray* and *Alden* does not cure the above-noted deficiencies of *Sessions*. In the Office Action, the Examiner applied *Dupray* for its alleged teaching of modifying the propagation model according to topology characteristics of the at least one source of electromagnetic field and of using the modified propagation model to estimate the field. See Office Action, p. 4. *Alden* was applied for its alleged teaching of modifying the propagation model according to a parameter identifying the distance of the determined position with respect to the source of the electromagnetic field. See *id.* at p. 6. Even assuming that the Examiner’s

characterizations of *Dupray* and *Alden* are correct, which Applicants do not concede, *Dupray* and *Alden* still do not teach or suggest “defining a propagation model for estimating the field received from the at least one source of electromagnetic field at a determined position of a territory, wherein the propagation model estimates the field received from the at least one source of electromagnetic field without measuring the field,” as required by Applicants’ amended independent claims 25, 33, 41, 44, and 48.

For at least the foregoing reasons, *Sessions*, *Dupray*, and *Alden*, fail to teach or suggest all of the features of amended independent claims 25, 33, 41, 44, and 48. Accordingly, a *prima facie* case of obviousness has not been established, and Applicants submit that independent claims 25, 33, 41, 44, and 48 are allowable over the art of record. Claims 26, 27, 31, 34, 35, 38, 39, 42, and 45-47 depend from one of independent claims 25, 33, 41, 44, and 48, and are allowable for at least the same reasons. Applicants therefore request that the Examiner withdraw the rejections under 35 U.S.C. § 103(a) against pending claims 25-27, 33-35, 38, 41, 42 and 44-48.

III. Allowable Subject Matter

Applicants acknowledge with appreciation the Examiner’s indication that claims 28, 29, 32, 36, 37, and 40 are drawn to allowable subject matter. For the foregoing reasons demonstrating the allowability of all the pending claims over the rejection of record, however, Applicants respectfully decline to amend claims 28, 29, 32, 36, 37, and 40 at this time.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

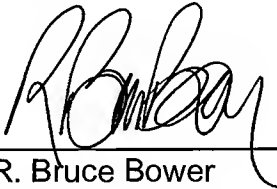
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: August 31, 2009

By: _____



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